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December 5, 1994

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JAMES A. STENGER

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

ATTN: Chief, Cable Services Bureau

Re: Cable Home Wiring, MM Docket No. 92-260

Dear Mr. Caton:

On behalf of Vista Technology Management, Inc. ("Vista"), we respectfully request that the Commission consider this letter in connection with the pending Petitions for Reconsideration of the Cable Home Wiring Rules in MM Docket 92-260.

Vista seeks to compete with franchised wired cable operators in the provision of multi-channel video services to multiple unit installations ("MUI's"). The Commission's cable subscriber wiring rules are intended to facilitate such competition by enabling subscribers to change service providers without suffering a penalty in the form of disruption to their units attendant upon rewiring.

The petitioners assert that the Commission in its initial rule making inadequately addressed the unique problems associated with MUI's, as opposed to single family homes. However, none of the petitioners appears to have provided the Commission with facts that Vista respectfully submits should be considered in the reconsideration of these important rules.

In many MUI's cable service is purchased in bulk by the building owner, manager or condominium association. Individual unit occupants purchase service from the owner, manager or association and are not subscribers of the franchised cable operator. Existing Rule Section 76.5(ee) defines the "subscribers" as the ultimate recipients of cable service and appears to exclude building owners, managers and associations

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that redistribute cable service purchased in bulk. 47 C.F.R. §76.5(ee).

Excluding bulk purchasers such as building owners, managers and associations from the definition of "subscribers" seriously impedes competition among multi-channel video service providers. Bulk purchases are particularly common in the case of loop through installations. In loop through installations, competition among multi-channel video service providers on a unit by unit basis is not practicable and competition must be fostered on a building by building basis.

The Commission recognizes that individual units cannot make independent subscription choices in loop through installations. For this reason, the current definition of "demarcation point" appears to exclude wiring in loop through installations: "...but shall not include loop through or other similar series cable wire." 47 C.F.R. §76.5(mm)(2).

The apparent exclusion of loop through installations under the existing "demarcation point" definition of Section 76.5(mm)(2) would deny the competitive benefits of the subscriber wiring rules to the occupants of units in loop through installations. In the event that the building residents, owner, manager or condominium association in a loop through installation desire to change cable service providers, the subscribers may be unable to purchase the loop through wiring from the cable operator under the current definition of "demarcation point" and may suffer the disruption of rewiring. Lack of right to purchase the loop through wiring also may impede the ability of subscribers to negotiate more favorable rates or services with an existing cable service provider, short of termination.

While the petitioners appear to address only home run buildings in which competition among multi-channel video service providers can occur on a unit by unit basis, Vista urges the Commission also to adopt rules that will promote effective competition on a building by building basis in loop through installations and under bulk purchase contracts. The Commission should revise the Rules to address the fact that loop through buildings and bulk purchase contracts do exist.

Vista also urges the Commission to revise the references in the Rules to "home wiring" and "dwelling units" to address the fact that multi-channel video service increasingly is provided to office buildings and other multi-unit installations that are not "homes" or "dwellings" as that those terms commonly are understood. The joint marketing of video, voice, data and other interactive services will accelerate non-residential multi-

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unit installations that also should be made subject to effective competition.

For the forgoing reasons, Vista respectfully requests that the Cable Home Wiring Rules be revised as follows:

The definition of "subscriber" in Section 76.5 of the Rules should be revised to state:

(ee) Subscribers. A member of the general public who receives broadcast programming distributed by a cable television system and does not further distribute it. For purposes of Sections 76.5(11) and (mm) and 76.801 and 76.802 of this Part, the term subscriber also shall include any building owner or manager, condominium association, or other bulk purchaser or reseller of cable service.

The definition of "cable home wiring" in Section 76.5(11) of the Rules should be revised to state:

(11) Cable subscriber home wiring. The internal wiring used to provide cable service to contained within the premises of a subscriber which begins at the demarcation point. Cable subscriber home wiring does not include any active elements such as amplifiers, converter or decoder boxes, or remote control units.

The definition of "demarcation point" point in Section 76.5(mm)(2) of the Rules should be revised to state:

(mm) Demarcation point. (1) [no change].
(2) For new and existing multiple unit installations, including both residential and non-residential, the demarcation point shall be the a point where the subscriber is connected to a common line serving multiple subscribers at (or about) twelve inches outside of where the cable wire enters the subscriber's dwelling unit, but shall not include loop through or other similar series cable wire.

The Subpart M of the Rules, including Sections 76.801 and 76.802, should be revised to state:

Subpart M - Cable Subscriber Home Wiring

§76.801 Scope.

The provisions of this subpart set forth rules and regulations for the disposition, after a subscriber

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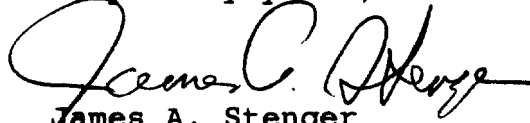
voluntarily terminates cable service, of that cable ~~subscriber home~~ wiring installed by the cable system operator or its contractor ~~within the premises of the subscriber~~. The provisions do not apply where the cable ~~subscriber home~~ wiring belongs to the subscriber, such as where the operator has transferred ownership to the subscriber, the operator has been treating the wiring as belonging to the subscriber for tax purposes, or the wiring is considered to be a fixture by state or local law in the subscriber's jurisdiction. Nothing in this subpart shall affect the cable system operator's rights and responsibilities under §76.617 to prevent excessive signal leakage while providing cable service, or the cable operator's right to access the subscriber's property or premises.

§76.802 Disposition of cable ~~subscriber home~~ wiring.

Upon voluntary termination of cable service by a subscriber, a cable system operator shall not remove the cable ~~subscriber home~~ wiring unless it gives the subscriber the opportunity to acquire the wiring at the replacement cost, and the subscriber declines. The cost is to be determined based on the replacement cost per foot of cabling multiplied by the length in feet of the cable ~~subscriber home~~ wiring. If the subscriber declines to acquire the cable ~~subscriber home~~ wiring, the cable system operator must then remove it within 30 days or make no subsequent attempt to remove it or to restrict its use.

Should additional information be necessary in connection with his matter, kindly communicate directly with the undersigned.

Very truly yours,


James A. Stenger

JAS/mec

cc: W. James MacNaughton, Esq.
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